

**ASSEMBLY BILL**

**No. 1011**

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**Introduced by Assembly Member Matthews**

February 22, 2005

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An act to amend Sections 12400, 12401, and 12406 of, and to repeal Section 12404 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, as introduced, Matthews. Pesticide brokers.

Existing law generally regulates pesticides and provides that it is unlawful for any person, other than the registrant of a pesticide or a licensed pest control dealer to sell or distribute registered pesticide products that are labeled for agricultural use, unless he or she is a licensed pesticide broker. However this does not apply to sellers or distributors of pesticides that are labeled only for nonagricultural uses.

This bill would remove provisions specifying that these provisions do not apply to persons who operate as sellers or distributors of pesticides that are labeled only for nonagricultural uses. Because this bill would require additional persons to be licensed it would expand the definition of a crime and impose a state-mandated local program.

Existing law requires that an application for a pesticide broker license be accompanied by a fee and provides a penalty for delayed payment.

This bill would remove those provisions calling for payment of a fee.

Existing law requires licensed pesticide brokers to maintain business records, as specified, that must be available for audit by the Director of Pesticide Regulation or county agricultural commissioner.

This bill would remove provisions requiring these records to be available to the county agricultural commissioner.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12400 of the Food and Agricultural  
2 Code is amended to read:

3 12400. It is unlawful for any person, other than the registrant  
4 or pest control dealer licensed pursuant to Section 12107, to sell,  
5 *offer to sell*, or distribute into ~~or within~~ this state, *or bring into*  
6 *the state for sale*, any pesticide products that have been registered  
7 by the director ~~and that are labeled for agricultural use~~; unless the  
8 person is licensed by the director as a pesticide broker. ~~This~~  
9 ~~chapter does not apply to persons who operate as sellers or~~  
10 ~~distributors of pesticides that are labeled only for nonagricultural~~  
11 ~~uses.~~

12 SEC. 2. Section 12401 of the Food and Agricultural Code is  
13 amended to read:

14 12401. (a) An application for a pesticide broker license, or  
15 renewal of a license, shall be in the form prescribed by the  
16 director. Each application for a license, or license renewal, shall  
17 state the name and address of the applicant, and any other  
18 information specified on the application or required by the  
19 director, ~~and be accompanied by a fee as prescribed by the~~  
20 ~~director pursuant to Section 11502.5.~~

21 ~~(b) An additional license fee, or license renewal fee, as~~  
22 ~~prescribed by the director pursuant to Section 11502.5, shall be~~  
23 ~~paid for each branch location, whether within or outside of this~~  
24 ~~state, of the applicant that sells or distributes into or within the~~  
25 ~~state any pesticide products that are labeled for agricultural use.~~

26 SEC. 3. Section 12404 of the Food and Agricultural Code is  
27 repealed.

1 ~~12404. A penalty as prescribed by the director pursuant to~~  
2 ~~Section 11502.5 shall be added to any license renewal fee that is~~  
3 ~~not paid by the date of expiration of a previously issued license~~  
4 ~~or license renewal.~~

5 SEC. 4. Section 12406 of the Food and Agricultural Code is  
6 amended to read:

7 12406. (a) Each licensed pesticide broker, or person who is  
8 required to be licensed as a pesticide broker pursuant to Section  
9 12400, shall maintain at its principal place of business the  
10 records of its purchases and sales and distributions of pesticides  
11 into or within this state, including those of its branch locations,  
12 for four years. These records shall include copies of invoices  
13 showing payment of the mill assessment. The records shall be  
14 available for audit by the director ~~or county agricultural~~  
15 ~~commissioner.~~

16 (b) Each licensed pesticide broker, or person who is required  
17 to be licensed as a pesticide broker pursuant to Section 12400,  
18 shall report quarterly to the director the total dollars of sales and  
19 total pounds or gallons sold into or within this state of each  
20 ~~pesticide labeled for agricultural use, for all sales sold and~~  
21 ~~subject to Sections 12841 and 12841.1.~~ The quarterly report shall  
22 be in the form prescribed by the director and shall include  
23 information from the broker's licensed branch locations, if any,  
24 and any other information specified on the form or required by  
25 the director. The report shall include a certification, under  
26 penalty of perjury, that the information contained in the report is  
27 true and correct. The report shall accompany payment of  
28 assessments required by Sections 12841 and 12841.1.

29 SEC. 5. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the  
34 penalty for a crime or infraction, within the meaning of Section  
35 17556 of the Government Code, or changes the definition of a  
36 crime within the meaning of Section 6 of Article XIII B of the  
37 California Constitution.